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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,020	11/15/2001	Christopher K. Sutton	10003881-1	2961

7590 06/02/2004

AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
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EXAMINER

PUENTE, EMERSON C


ART UNIT

PAPER NUMBER

2113

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/991,020	Applicant(s) SUTTON, CHRISTOPHER K. 	
	Examiner Emerson C Puente	Art Unit 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2001.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/19/03</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is made Non-Final. Claims 1-20 have been examined.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 recites the limitation "said results compared to said selected specifications" in line 2. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,134,674 of Akasheh.

In regards to claim 1, Akasheh discloses a product that provides a test executive program for controlling a test on a device, said product comprising:

instructions for directing a processing unit to receive a selected one of a plurality of alternative specifications for assessing a datapoint generated by a test, and apply said selected specification to said datapoint generated by said test; and a media readable by said processing unit that stores said instructions (see column 7 lines 18-36).

In regards to claim 2, Akasheh discloses:

instructions for directing said processing unit to receive a request for a display of said plurality of specifications available, determine said plurality of specifications available, and display said plurality of specifications (see column 11 lines 42-53 and column 13 lines 51-57).

In regards to claim 3, Akasheh discloses said request comprises the selection of an option of a displayed menu (see figure 3d and column 11 lines 42-53).

In regards to claim 4, Akasheh discloses said plurality of specifications available is displayed on a menu (see figure 8 and column 13 lines 51-57).

In regards to claim 5, Akasheh discloses said received selected specification is received as a choice from said menu of said plurality of specifications available (see column 13 lines 51-57).

In regards to claim 6, Akasheh discloses said instructions for determining said plurality of specifications available comprises instructions for directing said processing unit to determine said device being tested (see column 16 lines 25-40).

In regards to claim 7, Akasheh discloses said instructions for determining said plurality of specifications available comprises instructions for directing said processing unit to determine said test being applied to said device (see column 12 lines 25-30).

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In regards to claim 8, Akasheh discloses providing a test executive program that controls a test applied to a device comprising the steps of:

receiving a selected one of a plurality of alternative specifications for assessing a datapoint generated by a test and applying said selected specification to said datapoint generated by said test (see column 7 lines 18-36).

In regards to claim 9, Akasheh discloses:

receiving a request for a display of said plurality of specifications available, determining said plurality of specifications available, and displaying said plurality of specifications (see column 11 lines 42-53 and column 13 lines 51-57).

In regards to claim 10, Akasheh discloses wherein said request is a selection of an option of a displayed menu (see figure 3d and column 11 lines 42-53).

In regards to claim 11, Akasheh discloses wherein said plurality of specifications available is displayed on a menu (see figure 8 and column 13 lines 51-57).

In regards to claim 12, Akasheh discloses receiving selected specification is received as a choice from said menu of said plurality of specifications available (see column 13 lines 51-57).

In regards to claim 13, Akasheh discloses determining said plurality of specifications available comprises the step of determining said device being tested (see column 16 lines 25-40).

In regards to claim 14, Akasheh discloses determining said plurality of specifications available comprises the step of determining said test being applied to said device (see column 12 lines 25-30).

In regards to claim 15, Akasheh discloses updating a display of said results compared to said selected specification (see column 14 lines 15-20).

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In regards to claim 16, Akasheh discloses

a storing medium storing a test to be performed on a product other than said test system, a plurality of test datapoints resulting from said test, and a plurality of sets of alternative specifications for accessing said datapoints (see column 7 lines 18-36).

an input device for selecting one of said sets of alternative specifications (see column 7 lines 18-36)

a processor responsive to said input device for receiving said set of specifications and comparing them with said datapoints (see column 7 lines 18-36)

an output device for presenting the results of said comparison (see column 7 lines 18-36).

In regards to claim 17, Akasheh discloses wherein said input device comprises a menu on a display and a manual device for selecting an item on said menu (see column 11 lines 42-53 and column 13 lines 51-57).

In regards to claim 18, Akasheh discloses wherein said output device comprises a display (see column 14 lines 15-20).

In regards to claim 19, Akasheh discloses wherein said storing medium comprises an electronic memory (see column 5 line 50).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. **103(a)** as being unpatentable over Akasheh in view of Applicant's Admitted Prior Art, referred hereinafter "AAPA".

In regards to claim 20, Akasheh discloses stored test includes an operational test (see column 1 lines 16-25), but fails to explicitly disclose an environmental test

AAPA discloses complex electronic, electro-mechanical, and mechanical devices are generally tested using automated test system, including environmental tests which expose the DUT to various combinations of temperature, pressure, and humidity (see page 1 of specifications, lines 11-17).

It would have been obvious to one of ordinary skill in the art at the time the invention was made wherein stored test include an environmental test. A person of ordinary skill in the art would have been motivated because Akasheh discloses performing tests to ensure that a product meets or exceeds operational requirements and specified tolerances, and an environmental test, as per teaching of AAPA, is a well know test to determine environmental changes, thus enabling one to determine if the product meets or exceeds operational requirement and specified tolerances at various combinations of temperature, pressure, and humidity (see page 1 of specifications, lines 11-17).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

See Form PTO-892.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emerson C Puente whose telephone number is (703) 305-8012. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W Beausoliel can be reached on (703) 305-9713. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5631.

***Emerson Puente***

***5/27/04***

  
**SCOTT BADERMAN**  
**PRIMARY EXAMINER**